

ATTORNEY GENERAL
OF WASHINGTON

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GOVERNMENT COMPLIANCE
& ENFORCEMENT

FILED

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Hearings Unit, OIC
Patricia D. Petersen
Chief Hearing Officer

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR
THE COUNTY OF SNOHOMISH

JACK CHANDLER,

Petitioner,

State of Washington, OFFICE OF THE
INSURANCE COMMISSIONER,

Respondent.

NO. 04-2-11206-9

MEMORANUM DECISION
AFFIRMING REVOCATION OF
LICENSE

In reviewing this appeal the court has carefully reviewed the legal arguments of counsel, the administrative records and exhibits.

The review of this administrative order is governed by RCW 34.05.570.

In determining whether an error of law has occurred although the court may give deference to the agency's interpretation it cannot bind the court; and, the court will consider the issue de novo.

In determining whether the factual findings and conclusions are supported by the record the standard is whether there is substantial evidence of such. It is not whether the court would make the same finding and / or conclusion. The court views the evidence in the light most favorable to the prevailing party and will not engage in a weighing of the evidence.

In this case the appellant argues that since the Insurance Commissioner has not adopted regulations as to proscribed conduct, it is impossible to know what is meant by

the statute which gives the Office of the Insurance Commissioner the authority to revoke an agent's license if the license is "deemed by the commissioner [to be] ... untrustworthy." RCW 48.17.530(1)(h). Under the facts of this case, this argument is without merit. It maybe that if the behavior complained of was totally separate and apart from Mr. Chandler's insurance affairs, one could argue that the term is too vague to be reasonably enforceable. However, in the context of this case all of the complaints were interwoven into Mr. Chandler's insurance business.

By his own design he interlaced the various services and sales promotions. The clients clearly saw no distinctions between his "scheme" to reduce taxes, provide living trust, promote reverse mortgages, and / or offer insurance packages. He deliberately presented all of these under one umbrella to the public. Surely, he cannot now claim that his dishonesty in one area of business practice which is not directly in the selling and / or providing of insurance products cannot be the basis for revocation of his insurance license.

To paraphrase, these products and / or activities were all part of one larger "scheme". The statute [RCW 48.17.530(1)(h)] does not define the term untrustworthy. However, this court concludes that the term "untrustworthy" is not unconstitutionally vague in the context of the business of insurance.

The question then becomes whether there is sufficient factual basis for the decision to revoke his license.

In its Response Memorandum the Office of the Insurance Commissioner concedes that it would not contest the transaction regarding change of address, Oya Patterson, Great Republic Life, and Don Bruner. Therefore, this court will not consider them as grounds for revocation.

The first question is whether the use of the lead cards is a basis to conclude that Mr. Chandler is untrustworthy. There is little factual dispute about the lead cards – either how they were designed or about their purpose – to wit: as an entry into the person home so that other products could be ultimately presented.

On the face of the cards there was nothing to suggest that this was from a government agency and / or official. However, they were targeted at elder persons who are frequently confused and / or anxious as to any financial matters – especially those involving taxes.

There is no regulation that use of these lead cards are prohibited. The Office of the Insurance Commissioner has not formulated any regulation. Neither the state or county have enacted statutes or ordinances prohibiting their use or prohibiting individuals from offering their services to help seniors avoid over payment of taxes.

Despite this, the hearing examiner concluded that the use of the lead cards demonstrated untrustworthiness.

Although the actual use of the cards themselves may not support a finding of untrustworthiness, clearly it is relevant and material to his overall conduct.

The real purpose behind the card was to give the appellant and his associates an entry into person's homes and affairs. It would appear that the services provided by Mr. Chandler's associates were either superficial and / or inadequate. Nevertheless, the purpose of the cards was deliberately hidden from the clients.

A significant amount of the record concerned the dealing with Ms. Husby and whether she was forced to signing various unknown documents. This court cannot weigh the evidence but the record must be able to support the factual finding. In the case of Ms.

Husby her testimony at the hearing was not sufficient to support the finding as set forth in the review decision.

There is no documentary evidence of her signing anything other than the exemption request forms. It maybe that after telling Mr. Galt that she was concerned and / or afraid of what she might have signed. And, it may be that she felt intimidated by Mr. Chandler and his associate. But there is insufficient evidence to form a basis of untrustworthiness.

In regard to the Kristjanson matter the hearing examiner concluded that Mr. Chandler's behavior could not be trusted. Again there really is little factual dispute. And, although there is no regulation that an insurance agent must deal directly with the client's children, it is clear that under these circumstances Mr. Chandler was clearly circumventing their involvement for his own interest – to the detriment of his client. There is sufficient factual basis to conclude that Mr. Chandler lacked trustworthiness on this transaction.

The dispute with Mr. Boechel has many different facts – most of which are not germane to the trust trustworthy issue – i.e. the correctness of the document and / or the reference to annuities. There are not problems of trustworthiness – rather of competence, which is not an asserted ground for the revocation of Mr. Chandler's license.

The remaining grounds for revocation concern the Alpha Telecom matter. Once again there is little in the way of factual dispute. Rather, the issue is whether the behavior constitutes untrustworthiness. This court would find that it does. Especially when it is coupled with finding #17 wherein Mr. Chandler convinces a 75 year old widow that she should enter into a reverse mortgage and then take the proceeds and invest in Telecom. This goes beyond incompetence. It demonstrates a self dealing to the

detriment of the client. The record supports a finding and conclusion of untrustworthiness in this regard.

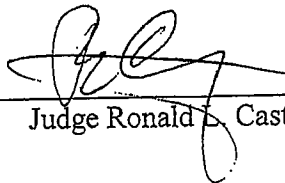
Lastly, in regard to the false application, the hearing officer concluded that Mr. Chandler knew of the California complaints and willfully failed to disclose them on his application with the exception of the "final investigation" of April 2000 [F.F. 7], the record does not support a finding that Mr. Chandler was aware of earlier investigations or that such would have warranted mentioning on his application.

The record does not support the conclusion that he obtained his license through willful misrepresentation or fraud [RCW 48.17.530(1)(c)].

It appears to this court that no errors of law were committed, and, although some findings of fact were insufficient as stated above, that the record does support the finding and conclusions that Mr. Chandler is untrustworthy and not qualified to be an insurance agent pursuant to RCW 48.17.530(1)(h).

The order revoking his license is affirmed.

DONE IN OPEN COURT this 14 day of February, 2006.



Judge Ronald S. Castleberry